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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA - OAKLAND

ABDULATAEF ALI,)	Case No. 4:20-cv-08122-HSG
Plaintiff,)	
)	<u>Action Filed:</u> November 18, 2020
vs.)	
)	STIPULATION AND ORDER AS
PASHA HAWAII HOLDINGS, LLC)	MODIFIED TO RESUME TRIAL ON
)	JANUARY 9, 2023 AND DISPUTE
Defendants.)	OVER APPEARANCES
)	
)	<i>ASSIGNED FOR ALL PURPOSES TO:</i>
)	<i>Haywood S Gilliam, Jr, presiding</i>
)	<i>Kandis A. Westmore, referral</i>
)	
)	Trial: 12/12/22

Plaintiff, ABDULATAEF ALI (“Plaintiff”), and Defendant, PASHA HAWAII HOLDINGS, LLC (“Defendant”), by and through their respective counsel, met and conferred on Friday, December 16 and again on Monday, December 19 to discuss the

1 resumption of trial to allow Plaintiff's expert Steven Wiker to testify. While the parties
2 were able to agree that Trial should resume on the morning of Monday, January 9,
3 2023, they were not able to agree on whether Mr. Wiker and counsel should appear live
4 or via Zoom at that time. For that reason, the Parties submit the following stipulation
5 on the date and their respective positions on whether trial should resume live or via
6 Zoom.

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8 **A. PLAINTIFF'S POSITION**

9 Pursuant to the mandate of FRCP 1 "Scope and Purpose" that the rules be
10 "construed, administered, and employed by the court and parties to secure the just,
11 speedy, and inexpensive determination of every action proceeding."(emphasis added),
12 Plaintiff Ali requests the court to allow Plaintiff counsel to appear and present the
13 testimony of his liability expert, Steve Wiker via Zoom format to avoid the
14 considerable expense and inconvenience of an additional multi-day day trip from
15 Michigan to California by trial counsel (The flight schedules necessitate a Sunday
16 arrival, and a Monday or Tuesday departure) and a similar trip by Steve Wiker from
17 Seattle to Oakland, requiring a Sunday arrival.


18 **B. DEFENDANT'S POSITION**

19 Steve Wiker is Plaintiff's sole liability expert, and his case is predicated on his
20 testimony. In short, Mr. Wiker is a critical witness. For that reason, Defendant
21 believes that he should testify and be cross-examined live in the Courtroom. All other
22 witnesses, expert and lay, have already appeared live in Court, and Mr. Wiker's
23 demeanor and credibility should be assessed by the Court live for a fair comparison. In
24 addition, the time and cost of appearing live is reasonable given the nature of the case
25 and the amount of damages being sought by the Plaintiff. Further, Plaintiff chose this
26 forum and chose to retain an out-of-state expert to testify.

1 DATED: December 19, 2022

2 /s/ Gary Wm. Baun
3 GARY WM. BAUN
4 **O'BRYAN BAUN KARAMANIAN**
Attorneys for Plaintiff, ABDULATEAEF ALI

5 DATED: December 20, 2022

6 
7 ALBERT E. PEACOCK III
8 **PEACOCK PIPER TONG + VOSS LLP**
Defendant, PASHA HAWAII HOLDINGS, LLC

9 I hereby attest that all other signatories listed above, and on whose behalf
10 the filing is submitted, concur in the filing's content and have authorized the filing of
11 same.
12

13 DATED: December 19, 2022

14 /s/ Albert E. Peacock III
15 ALBERT E. PEACOCK III
16 **PEACOCK PIPER TONG + VOSS LLP**
Defendant, PASHA HAWAII HOLDINGS, LLC

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20 [Order appears on following page]
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ORDER

Having read the Parties' stipulation and positions on live versus Zoom attendance and in light of the circumstances presented, the Court grants the Parties' request and hereby orders that trial is to resume on Monday, January 9, 2023, at 8:30 a.m. in Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA. At that time, counsel and Mr. Wiker shall appear and be presented live. In addition, should either party contemplate calling any rebuttal witness, such witness(es) must be available and ready to testify immediately after Mr. Wiker so that the presentation of all evidence can be concluded on that date.

IT IS SO ORDERED.

DATED: 12/20/2022



Honorable Judge Haywood S Gilliam, Jr.